

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 26, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 564

**Introduced by Assembly Members Portantino and Bonnie
Lowenthal**

February 25, 2009

An act to ~~amend Section 11999.6 of~~ *add Division 10.75 (commencing with Section 11999.3.1)* to the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Portantino. ~~Substance Abuse Treatment Fund~~ *abuse treatment*: prohibition of excessive salaries.

Existing law, the Substance Abuse and Crime Prevention Act of 2000, was enacted by the voters at the November 2000 general election. Amendment of the act by the Legislature requires a $\frac{2}{3}$ vote of both houses of the Legislature. The act requires all amendments to further the act and be consistent with its purposes. The act creates a Substance Abuse Treatment Trust Fund to provide moneys to cover county costs associated with drug treatment programs, as specified. The act also requires annual and long-term effectiveness and financial impact studies on the programs funded by the act as well as periodic audits of the expenditures. *Existing law places certain conditions on the allocation of state funds to entities, whether public or private, for drug- or*

alcohol-related programs and requires state agencies that distribute state funds to these entities to establish and provide guidelines and procedures for these entities to use to ensure compliance with those conditions.

This bill would establish a limitation on the amount of compensation a director, officer, or employee of a nonprofit substance abuse treatment facility may receive from public sources, not to exceed a certain federal compensation limitation, and establish specified compensation requirements for any director, officer, or employee who collects rent from a drug treatment facility. Because this bill would establish restrictions on the distribution of funds from the Substance Abuse Treatment Trust Fund, it would amend the Substance Abuse and Crime Prevention Act of 2000 and therefore require a $\frac{2}{3}$ vote of both houses of the Legislature.

~~This bill would provide that the moneys in the Substance Abuse Treatment Trust Fund shall not be used to provide a special benefit that is unreasonable under the circumstances to any private person or entity because of his, her, or its relationship to a nonprofit corporation receiving funding from the fund, including excessive executive compensation, as specified.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of Legislature in enacting this act
2 to reinforce the goals of Proposition 36 of the November 2000
3 statewide general election by ensuring that money directed by the
4 voters for drug treatment should be used for that purpose and not
5 to provide large salaries to the executives of large drug treatment
6 facilities.

7 SEC. 2. Division 10.75 (commencing with Section 11999.3.1)
8 is added to the Health and Safety Code, to read:

9

10 DIVISION 10.75. COMPENSATION OF SUBSTANCE ABUSE
11 TREATMENT PROVIDERS

12

13 11999.3.1. The following restrictions shall apply to the
14 compensation of any director, officer, or employee of any nonprofit
15 corporation providing substance abuse treatment in the state:

1 (a) *The maximum amount of public funds that may be used for*
2 *compensation for a full-time director, officer, or employee shall*
3 *not exceed the salary limitation established by the federal*
4 *government on awards made by the federal Substance Abuse and*
5 *Mental Health Services Administration (SAMHSA). This amount*
6 *shall be prorated for any person working less than full time.*

7 (b) *Public funds shall not be used for compensation for any*
8 *director, officer, or employee who collects rent from a substance*
9 *abuse treatment facility unless that person certifies that he or she*
10 *is in compliance with the federal Office of Management and Budget*
11 *Circular A-122, relating to cost principles for nonprofit*
12 *organizations.*

13 ~~SEC. 2. Section 11999.6 of the Health and Safety Code is~~
14 ~~amended to read:~~

15 ~~11999.6. (a) Moneys deposited in the Substance Abuse~~
16 ~~Treatment Trust Fund shall be distributed annually by the Secretary~~
17 ~~of the Health and Human Services Agency through the State~~
18 ~~Department of Alcohol and Drug Programs to counties to cover~~
19 ~~the costs of placing persons in and providing drug treatment~~
20 ~~programs under this act, and vocational training, family counseling,~~
21 ~~and literacy training under this act. Additional costs that may be~~
22 ~~reimbursed from the Substance Abuse Treatment Trust Fund~~
23 ~~include probation department costs, court monitoring costs and~~
24 ~~any miscellaneous costs made necessary by the provisions of this~~
25 ~~act other than drug testing services of any kind. Incarceration costs~~
26 ~~cannot be reimbursed from the fund. Those moneys shall be~~
27 ~~allocated to counties through a fair and equitable distribution~~
28 ~~formula that includes, but is not limited to, per capita arrests for~~
29 ~~controlled substance possession violations and substance abuse~~
30 ~~treatment caseload, as determined by the department as necessary~~
31 ~~to carry out the purposes of this act. The department may reserve~~
32 ~~a portion of the fund to pay for direct contracts with drug treatment~~
33 ~~service providers in counties or areas in which the director of the~~
34 ~~department has determined that demand for drug treatment services~~
35 ~~is not adequately met by existing programs. However, nothing in~~
36 ~~this section shall be interpreted or construed to allow any entity~~
37 ~~to use funds from the Substance Abuse Treatment Trust Fund to~~
38 ~~supplant funds from any existing fund source or mechanism~~
39 ~~currently used to provide substance abuse treatment. In addition,~~
40 ~~funds from the Substance Abuse Treatment Trust Fund shall not~~

1 be used to fund in any way the drug treatment courts established
2 pursuant to Article 2 (commencing with Section 11970.1) or Article
3 3 (commencing with Section 11970.4) of Chapter 2 of Part 3 of
4 Division 10.5, including drug treatment or probation supervision
5 associated with those drug treatment courts.

6 (b) (1) Funds from the Substance Abuse Treatment Trust Fund
7 shall not be used to provide an individual or entity with any special
8 benefit that is unreasonable under the circumstances because of
9 his, her, or its relationship to any nonprofit corporation receiving
10 funding from the fund, including excessive compensation to
11 directors, officers, or employees of any nonprofit corporation
12 receiving that funding.

13 (2) In order to effectuate this subdivision, the following
14 requirements shall apply to the compensation of any executive of
15 a nonprofit corporation providing services under this division:

16 (A) The amount of any grant of funds under this section which
17 can be used for executive compensation may not exceed 1 percent
18 of the value of the grant multiplied by the percentage of total
19 revenues received by the corporation for substance abuse treatment
20 activities that come from public sources. However, if this
21 calculation yields an amount less than one-quarter of 1 percent of
22 the value of the grant, an amount that does not exceed one-quarter
23 of 1 percent of the grant may be used for executive compensation.

24 (B) No grant of funds under this section shall be used for
25 executive compensation for anyone who collects rent from a
26 treatment facility in an amount that exceeds 1 percent of the value
27 of the grant.